

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25577 of 2006

27.12.2006

Between:

Himagiri Flat Owners Association, represented by its Secretary,
D.Venkateshwarlu, S/o.Anjaneyulu

... Petitioners

AND

A.P.Central Power Distribution Company Limited, represented by its
Chief General Manager, Singareni Bhavan, Red Hills, Hyderabad
And others

... Respondents

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WRIT PETITION No.25577 of 2006

ORDER:

Himagiri Flat Owners Association filed the instant writ petition seeking a writ of Mandamus declaring the action of respondents 1 to 3 (officials of Central Power Distribution Company Limited {CPDPCL}) in not transferring the service connections in favour of individual flat owners and further declaring the notice dated 21.11.2006 issued to the fourth respondent threatening disconnection of power supply to twenty one (21) flats as illegal and arbitrary.

The petitioner is espousing the cause of the owners of flats in Himagiri Saroja Hills constructed by M/s.Sphinx Holdings Pvt. Ltd. The fourth respondent is General Power of Attorney (GPA) Holder of the said company. Be that as it is all the members of the petitioner association purchased flats in the apartment block except 21 flats out of 95 flats. Though they purchased the flats under valid sale deeds, the service connection given by the respondent to each flat was not transferred in the name of the flat owner. The bills are being regularly issued in the name of the fourth respondent in respect of each flat and all the owners who purchased the flats are paying the electricity bills without demour. However, it appears that the fourth respondent leased out 21 flats to different persons and there are arrears in respect of those 21 service connections. In connection with the demand of arrears notice was issued to the fourth respondent on 21.11.2006 by the third respondent informing that these 21 service connections will be disconnected if the arrears of electricity bills are not paid. Apprehending disconnection of other service connections also, the present writ petition is filed.

Learned Counsel for the petitioner placed strong reliance on the

decision of Division Bench in **Ramu Towers Residents Welfare Society v Superintending Engineer, APSEB, Hyderabad**^[1] in support of the contention that the respondents cannot disconnect power supply to the owners of the flats if the arrears relate to the period prior to the purchase. **Per contra**, learned Standing Counsel, Sri G.V.Raghava Reddy, appearing for CPDCL submits that unless and until proper application is made for transfer of ownership of the service connections duly enclosing the requisite documents and paying requisite fee, applications cannot be considered. He also submits that about 75 flat owners of Himagiri Saroja Hills have not so far made such applications. He placed reliance on Regulation 5 of the A.P. Electricity Regulatory Commission (Licensees' Standards of Performance) Regulation, 2004 (hereafter called, Regulations) promulgated by APERC in terms of the provisions of Section 57 of the Electricity Act, 2003 (the Act, for brevity). He also placed reliance on Condition 13.3 and Appendix-1 to the General Terms & Conditions of Supply (GTCS) made by CPDCL in support of the contention.

Regulation 5 of the Regulations requires the licensee (distribution company) to give effect to transfer of ownership, change of category and conversion of existing service from LT to HT and vice-versa within the time limit prescribed thereunder. In the matter of transfer of ownership, the licensee is required to give effect to such transfer within seven days of receipt of application with necessary documents and prescribed fee. Condition 13.3 (iv) of GTCS read with Column 11 of Appendix-1 would show that a person requiring transfer of service connection has to furnish certain documents like proof of ownership, indemnity bond and demand draft with requisite fee. Admittedly, none of the members of the petitioner association has applied with Regulation 5 of Regulations read with Condition 13.3 of GTCS. Therefore, the action of the respondents 1 and 3 in not effecting transfer cannot be faulted. However, there cannot be any dispute that if the fourth respondent failed to pay arrears of electricity charges in respect of 21 flats (21 service connections), the members of the petitioner association, who are owners and are regularly paying electricity bills even though the bills are raised in the name of the fourth respondents, cannot be subjected to any coercive disconnection without notice to them. This position is not seriously disputed.

In the result, the writ petition is disposed of, giving liberty to the members of the petitioners association to make appropriate applications within a period of one week from the date of receipt of a copy of this order. As and when such applications are received, respondent No.2 shall effect the transfer as per Regulation 5 of the

Regulations. If any of the arrears are due from the respective flat owners after the date of purchase of the flats, they shall be liable to pay the amount.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

December 27, 2006.

(V.V.S.RAO,J)

NOTE:

Issue order copy by

02.1.2007.

(By order)

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[\[1\]](#) 1997(6) ALD 114 (DB)